

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JACK ORLANDO JOHNSON,
Plaintiff,
v.
TORRES,
Defendant.

No. 1:22-cv-01457-JLT-BAM (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS
(Doc. 12)

Plaintiff Jack Orlando Johnson is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On January 24, 2023, the assigned magistrate judge screened Plaintiff's complaint and found that it stated a cognizable claim against Defendant E. Torres for excessive force in violation of the Eighth Amendment for the incident on May 5, 2022, but failed to state any other cognizable claims for relief. (Doc. 9.) The magistrate judge ordered Plaintiff to either file a first amended complaint or notify the Court of his willingness to proceed only on the cognizable claim identified by the Court. (*Id.*) On February 6, 2023, Plaintiff notified the Court of his willingness to proceed only on the cognizable claim identified by the Court. (Doc. 10.)

Pursuant to Plaintiff's notice, on February 8, 2023, the magistrate judge issued findings and recommendations recommending that this action proceed on Plaintiff's complaint against Defendant E. Torres for excessive force in violation of the Eighth Amendment. (Doc. 12.) The

1 magistrate judge further recommended that all other claims be dismissed based on Plaintiff's
2 failure to state claims upon which relief may be granted. (*Id.*) The findings and recommendations
3 were served on Plaintiff and contained notice that any objections were to be filed within fourteen
4 (14) days after service. (*Id.* at 7.)

5 On February 27, 2023, Plaintiff filed a Non-Opposition to Findings & Recommendations.
6 (Doc. 13.) Plaintiff states that he will not oppose the findings and recommendations and requests
7 that the Court accept said findings and recommendations. (*Id.*)

8 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
9 *de novo* review of this case. Having carefully reviewed the entire file, including Plaintiff's non-
10 opposition to the findings and recommendations, the Court finds the findings and
11 recommendations to be supported by the record and by proper analysis.

12 Accordingly, the Court **ORDERS**:

13 1. The findings and recommendations issued on February 8, 2023, (Doc. 12), are
14 **ADOPTED IN FULL.**

15 2. This action shall proceed on Plaintiff's complaint, filed November 10, 2022, (Doc. 1),
16 against Defendant E. Torres for excessive force in violation of the Eighth Amendment.

17 3. All other claims are **DISMISSED** from this action for failure to state claims upon
18 which relief may be granted.

19 4. This action is referred back to the magistrate judge for proceedings consistent with this
20 order.

21 IT IS SO ORDERED.

22 Dated: February 28, 2023

23 5.


UNITED STATES DISTRICT JUDGE

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